

Appl. No.: 10/687,146
Amndt. dated 10/31/2005
Reply to Official Action of August 1, 2005

REMARKS/ARGUMENTS

Applicants appreciate the thorough examination of the present application, as evidenced by the first Official Action. The first Official Action rejects Claims 1, 3-7, 14-19, 21, 22 and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,677,852 to Landt, in view of U.S. Patent No. 5,305,008 to Turner et al. The Official Action rejects Claims 2, 20 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Landt and Turner, and further in view of European Patent Application Publication No. EP 660,624 to Davis (corresponding to U.S. Patent No. 6,353,739). In addition, the Official Action rejects Claims 8, 9, 11 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Landt and Davis; and rejects Claims 10 and 12 as being unpatentable over Landt and Davis, and further in view of Turner.

In response to the first Official Action, Applicants have amended independent Claims 1, 8, 14 and 22 to further clarify the claimed invention. More particularly, Applicants have amended independent Claims 1, 8, 14 and 22 to include recitations of dependent Claims 3, 9 and 24. Accordingly, Applicants have also cancelled the respective recitations from dependent Claims 3, 9 and 24, and amended the dependencies of Claims 4, 5, 10, 11, 25 and 26. As explained below, Applicants respectfully submit that the claimed invention of amended independent Claims 1, 8, 14 and 22, and by dependency Claims 2-7, 9-13, 15-21 and 23-28, is patentably distinct from Landt, Turner and Davis, taken individually or in combination. In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

I. Claims 1, 3-7, 14-19, 21, 22 and 24-28 are Patentable over Landt in view of Turner

As indicated above, Claims 1, 3-7, 14-19, 21, 22 and 24-28 stand rejected as being unpatentable over Landt in view of Turner. In this regard, Landt discloses a system and method for automatically controlling or configuring an RFID reader. As disclosed, an RFID reader reads a master control tag to upload sets of instructions from the tag to memory resident in the reader. Thereafter, the reader may read a control tag to select one or more sets of instructions stored in memory. As also disclosed, the reader can include "a microphone for voice activation of the

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reader [], or a distance of motion sensor to automatically enable reading/scanning of tags/symbols.”

Turner discloses an RFID transponder system including an interrogator for transmitting an interrogation signal and receiving a reply thereto, and a label for receiving the interrogation signal and scattering the reply for receipt by the interrogator. As disclosed, the interrogator is configured to transmit an amplitude modulated signal, the signal being amplitude modulated between a high level V_H for a period T_H , and a lower level V_L for a period T_L , where V_L may be set to zero. As disclosed, when the interrogator senses that an object including a label may be moving quickly through the field of the interrogator, the intervals between high-power periods (i.e., $T_R = T_H + T_L$) may be temporarily shortened to present a greater number of high power periods to the rapidly moving object. As also disclosed, however, the repetition intervals must later be lengthened to achieve a required average power over a longer statutory interval T_A .

According to one claimed aspect of the present invention, as recited by amended independent Claim 1, a method for adjusting power consumption of a RFID reader associated with a mobile terminal is provided. As recited, the method includes determining a context of the mobile terminal. The power consumption of the RFID reader is then adjusted based upon the context of the mobile terminal relative to at least one previous context determination of the mobile terminal. In this regard, the power consumption of the RFID reader can be adjusted by altering the frequency at which the RFID reader is actuated. More particularly, as amended, adjusting the power consumption of the RFID reader can include reducing the power consumption when no change in the context of the mobile terminal is detected.

In contrast to the claimed invention, neither Landt nor Turner, individually or in combination, teach or suggest reducing the power consumption of an RFID reader when no change in the context of the mobile terminal is determined. In this regard, although Landt discloses a motion sensor to automatically enable reading/scanning of tags/symbols, Landt does not disclose that the reading/scanning of tags/symbols is otherwise disabled if the motion sensor does not sense motion of the reader or an object. Similarly, although Turner discloses increasing the frequency with which its interrogator scans for an object when the interrogator senses a fast

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moving object, Turner does not disclose otherwise decreasing the frequency if the interrogator does not sense an object.

The Official Action suggests that by including a distance or motion sensor for automatically enabling reading/scanning of tags/symbols, Landt discloses disabling its RFID reader (i.e., reducing the reader's power consumption) when the RFID reader is stationary (i.e., no change in the reader's context). Applicants respectfully submit, however, that disclosing automatic enabling of an RFID reader cannot properly be extended to automatically disabling of that RFID reader. Presume for purposes of illustration (but expressly not admitted) that movement of an RFID reader (detected by a motion detector) corresponds to a change in context, and that automatically enabling an RFID reader to read/scan tags/symbols corresponds to increasing the power consumption of the RFID reader. In such an instance, it could more appropriately be suggested that when the RFID reader is stationary (i.e., no change in the reader's context), the motion sensor merely does not automatically enable reading/scanning tags/symbols, thereby resulting in no change in the power consumption of the RFID reader, in contrast to a reduction in the power consumption as in the claimed invention.

Further, presume that it could reasonably be suggested that after the RFID reader of Landt is automatically enabled in response to detecting movement of the reader, the reader is automatically disabled when the reader ceases to move. Even in this instance, however, automatic disabling of the RFID reader, and any reduction in power consumption realized thereby, would be in response to detecting a change in movement or context of the RFID reader, in contrast to reducing power consumption when no change is determined as in the claimed invention. Thus, Applicants respectfully submit that under no reasonable interpretation does Landt teach or suggest reducing the power consumption of an RFID reader when no change in the context of the mobile terminal is determined, as recited by amended independent Claim 1.

Applicants therefore respectfully submit that the invention of amended independent Claim 1, and by dependency Claims 2-7, is patentably distinct from Landt and Turner, taken individually or in combination. Applicants also respectfully submit that amended independent Claims 8, 14 and 22 recite subject matter similar to that of amended independent Claim 1. In this regard, amended independent Claims 8, 14 and 22 recite reducing the power consumption of an

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RFID reader when no change in the context of the mobile terminal is determined. Thus, Applicants respectfully submit that amended independent Claims 8, 14 and 22, and by dependency Claims 9-13, 15-21 and 23-28, are also patentably distinct from Landt and Turner, taken individually or in combination, for at least the same reasons given above with respect to amended independent Claim 1.

Applicants therefore respectfully submit that the rejection of Claims 1, 3-7, 14-19, 21, 22 and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over Landt in view of Turner is overcome.

II. Claims 2, 20 and 23 are Patentable over Landt and Turner, and further in view of Davis

As indicated above, the first Official Action rejects Claims 2, 20 and 23 as being unpatentable over Landt in view of Turner, and further in view of Davis. As explained below, however, Applicants respectfully submit that contrary to the assertion in the Official Action, Davis is non-analogous art to the claimed invention, and as such cannot properly be relied upon as a basis for a § 103 rejection. Further, even if Davis were considered analogous art, Applicants also respectfully submit that dependent Claims 2, 20 and 23 are patentably distinct from Landt, Turner and Davis, taken individually or in combination.

A. Davis is Non-Analogous to the Claimed Invention

As explained in MPEP § 2141.1(a), to rely on a reference as a basis for rejection under 35 U.S.C. § 103(a), the reference must be analogous prior art to the claimed invention. Firstly, the Davis publication is classified as a technology significantly different from that of the claimed invention as well as the Vance patent. As also explained in the MPEP, Patent Office classification is evidence of non-analogy or analogy. In the instant case, U.S. Patent No. 6,353,739, which corresponds to the Davis EP publication, is currently assigned three classifications, namely, (a) class 455, subclass 428 directed to switching or routing in a radiotelephone system, (b) class 455, subclass 426.1 directed to other radio communication system (e.g., cordless telephone, paging, trunking, etc.) in a radiotelephone system, and (c) class

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379, subclass 217.01 directed to audible paging for special services in telephonic communications. The claimed invention, on the other hand, is assigned classifications directed to electrical communications. In this regard, the claimed invention is currently assigned to class 340, subclass 10.34 directed to powering up an interrogation signal. As clearly shown, then, while the claimed invention is classified as a technology related to electrical communication that includes interrogation signals, such as in the case of RFID communication, Davis is classified as a technology having no relation to interrogation signal electrical communication.

As further evidence that Davis is non-analogous to the claimed invention, Applicants respectfully submit that the system and method disclosed by Davis significantly differs from that of the claimed invention, and as such significant structural and functional differences exist between the respective systems and methods. *See* MPEP § 2141.1(a) (explaining that structural and functional differences are further evidence of non-analogy or analogy). In this regard, the claimed invention provides a mobile terminal, method and computer program product for adjusting power consumption of an RFID reader. In contrast, as explained above, Davis discloses, with not even the most remote relation to an RFID reader or even RFID technology, a combination pager and cordless telephone for use in a wide area paging system having an automatic service area login. Thus, for at least those structural and functional differences, Applicants respectfully submit that Davis would not have been logically commended to an inventor's attention in considering the problem solved by the claimed invention. *See id.*, citing *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

As guidance on the issue of what is considered analogous art and what is not analogous art, MPEP § 2141.1(a) describes the case of *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993), in which an application was directed to a SIMMS memory module for use in a personal PC. The Examiner in *Wang Laboratories* cited prior art that was related to SIMMS for use in industrial products. The Federal Circuit determined that the reference cited by the Examiner was non-analogous art because the claimed invention related to compact modular memories, while the prior art related to systems that allow for interchangeability of different size memories. As shown, then, there must be a very close nexus between the fields disclosed in the references. In the example in the MPEP, both the claimed

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invention and the prior art cited by the Examiner included information about SIMMS memories, and the Federal Circuit still found the reference non-analogous. The present case is much further away from this example. The claimed invention is directed to adjusting power consumption of an RFID reader, while Davis is directed to a pager/cordless telephone in a wide area paging system. Applicants respectfully submit that if the Federal Circuit did not find references to be analogous where both references mention SIMMS memory devices, where the only distinction was the application of the SIMMS devices, then how could a reference concerning a wide area paging system relate to controlling power consumption of an RFID reader?

For at least the foregoing reasons, Applicants respectfully submit that as Davis is non-analogous to the claimed invention, Davis cannot be relied on as a basis for rejection under 35 U.S.C. § 103(a).

B. Claims 2, 20 and 23 are Patentable

Although Davis is non-analogous to the claimed invention, even if Davis were analogous to the claimed invention, and thus could properly be cited as a basis for rejection under § 103(a), Applicants respectfully submit that the invention of dependent Claims 2, 20 and 23 is patentably distinct from Landt in view of Turner, and further in view of Davis. In this regard, similar to Landt and Turner, Applicants respectfully submit that Davis does not teach or suggest reducing the power consumption of an RFID reader when no change in the context of the mobile terminal is determined, as recited by amended independent Claims 1, 14 and 22, and by dependency Claims 2, 20 and 23. As none of Landt, Turner and Davis teach or suggest this feature of the claimed invention, no combination of those publications can teach or suggest this feature.

In view of the foregoing, Applicants respectfully submit that the claimed invention of dependent Claims 2, 20 and 23 is patentably distinct from Landt, Turner and Davis, individually or in combination. Thus, Applicants also respectfully submit that the rejection of Claims 2, 20 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Landt in view of Turner, and further in view of Davis, is overcome.

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III. Claims 8-13 are Patentable over Landt in view of Davis, alone or further in view of Turner

The first Official Action also rejects Claims 8-13 as being unpatentable over Landt in view of Davis, alone or in further in view of Turner. As explained in section II, however, Applicants respectfully submit that Davis is non-analogous to the claimed invention, and therefore cannot be properly cited as a basis for a § 103(a) rejection. Even if Davis could properly be cited against the claimed invention, however, Applicants yet again respectfully submit that none of Landt, Davis and Turner, individually or in combination, teach or suggest reducing the power consumption of an RFID reader when no change in the context of the mobile terminal is determined, as recited by amended independent Claim 8 and by dependency Claims 9-13, and as explained above in section I with respect to amended independent Claim 1.

Applicants therefore respectfully submit that the claimed invention of amended independent Claim 8, and by dependency Claims 9-13, is patentably distinct from Landt, Davis and Turner, individually or in combination. Thus, Applicants also respectfully submit that the rejections of Claims 8-13 under 35 U.S.C. § 103(a) as being unpatentable over Landt in view of Davis, alone or further in view of Turner, are overcome.

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CONCLUSION

In view of the amendments to the claims and the remarks presented above, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

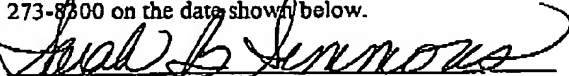
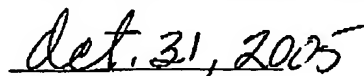


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